MALICIOUS PROSECUTION OF A CIVIL SUIT WITHOUT ARREST OR ATTACHMENT. — In *Savile* v. *Roberts*, 1 Ld. Raym. 374, Lord Holt laid down the proposition that any one of three sorts of damage would support an action for malicious prosecution, namely, damage to a man's fame, to his person, or to his property. That a prosecution for a crime, which involves the first sort of damage, the bringing of a civil suit with arrest of the person, which involves the second, and the bringing of a civil suit with attachment of property, which involves the third, are actionable if induced by malice and without reasonable cause, is universally admitted. But where a civil suit is unaccompanied by arrest of the defendant's person, or attachment of his property, it has often, perhaps generally, been held that the law must regard the costs which the defendant recovers as a sufficient recompense, and that he can bring no action for malicious prosecution. See the opinion of Bowen, L. J., in *Quartz Hill Gold Mining Co.* v. *Eyre*, L. R. 11 Q. B. D. 674, 689; *Potts* v. *Imlay*, 1 South. 330; *Wetmore* v. *Mellinger*, 64 Iowa, 741. On the other hand, in *Lipscomb* v. *Shofner*, 33 S. W. Rep. 818, the Tennessee court recently held that an action would lie under such circumstances, and this decision finds considerable support in this country. See *Closson* v. *Staples*, 42 Vt. 209; *Eastin* v. *Bank of Stockton*, 66 Cal. 123; *Woods* v. *Finnell*, 13 Bush, 628.

It is generally admitted that some action of this nature lay at common law. But since the Statute of Marlbridge (52 Hen. III.), which allowed costs to successful defendants *pro falso clamore*, no such action has been sustained by the English courts. Those costs apparently include "the attorney's charges for preparing the case for trial in all its parts, the fees of the witnesses and the court officials, and even the *honorarium* of the barrister who conducted the case in court." 21 Am. Law Reg. N. S. 370. In this country costs are much more sparingly allowed, and are often far from a recompense for the damage sustained. It is on this ground that many of the American courts have allowed the action. Their conclusion certainly seems logical, and in accord with the general principle on which the action for malicious prosecution is based. Manifestly, in the expense to which he is put the defendant suffers damage of a sort covered by Lord Holt's analysis; and if that damage, resulting as a natural consequence of the plaintiff's malicious act, exceeds the amount of costs given under a system which makes no attempt at complete compensation, the defendant should be allowed to make good the loss by another action. The main argument against allowing it, that it would encourage interminable litigation, hardly seems conclusive. See, for a full discussion of the subject, 21 Am. Law. Reg. N. S. 281, 353.

GENERIC AND SPECIFIC PATENTS. — A recent case decided by Judge Townsend in the second circuit, *Thomson-Houston Electric Co.* v. *Winchester Ave. Ry. Co.*, 71 Fed. Rep. 192, brings up the question how far an inventor is bound by the acts of the patent office in delaying an application filed by him. This point was passed upon in *Miller* v. *Eagle Mfg. Co.*, 151 U. S. 186, where the facts were as follows: An application for a patent being put into interference by the office was divided by the applicant. A patent was granted on the divisional application for a part of the invention. Subsequently the interference was decided in favor of the applicant, and a second patent was granted him for the rest of the invention. The drawings of both patents were identical and the specifi-